

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

DOMINIQUE PIERRE LEONARD, §
TDCJ-CID 1615579, §
Petitioner, §
v. § CIVIL ACTION NO. H-12-1814
RICK THALER, §
Respondent. §

MEMORANDUM AND ORDER REINSTATING ACTION

This habeas corpus action was dismissed after Dominique Pierre Leonard, the petitioner, failed to respond to the court's order directing him to pay the filing fee or submit a properly supported application to proceed in forma pauperis no later than July 23, 2012. Leonard has submitted a letter (Docket Entry No. 10), which the court has construed as a Motion to Reinstate. Leonard alleges that his fiancé attempted to pay the filing fee but was unable to do so until the action was reinstated. He asserts that the funds will be available upon reinstatement.

Under FED.R.CIV.P. 60(b)(6), the court may relieve a party from a final judgment where such action is appropriate to accomplish justice. United States v. Nolder, 749 F.2d 1128, 1129 (5th Cir. 1984). Because Leonard is representing himself, and the court has not ruled on the merits of the petition, the court finds that the case should be reinstated. Leonard is advised that he must comply

with all court orders in a timely manner and that his pro se status does not excuse him from the procedural requirements of the courts.

Failure to comply as directed may result in the dismissal of this action.

Plaintiff's Motion to Reinstate (Docket Entry No. 10) is **GRANTED** and the court **ORDERS** that this case be **REOPENED** and placed on the court's active docket.

Leonard is again **ORDERED** to pay the filing fee of \$5.00 within thirty days of the date of this Order. In the alternative, Leonard may submit an application to proceed in forma pauperis. **Failure to submit the fee or a pauper's application as directed may result in the dismissal of this action.**

The respondent, having previously submitted the state court records in this proceeding, shall file a dispositive motion within forty (40) days after receipt of this order and forward a copy of same to petitioner. Respondent is cautioned that under Rule 12(c), Fed. R. Civ. P., if matters outside the pleadings are relied upon, the respondent's motion shall be treated as a motion for summary judgment and should be titled as such.

Leonard is ORDERED to file a response to any motion filed by the respondent, within thirty (30) days. Leonard's failure to file a response within thirty days shall result in dismissal of this action for want of prosecution under Rule 41(b), Fed. R. Civ. P.

The Motion to Reinstate this proceeding (Docket Entry No. 10)
is **GRANTED**.

The Clerk will provide copies to the parties, certified mail,
return receipt requested or by electronic means.

SIGNED at Houston, Texas, on this 14th day of September, 2012.



SIM LAKE
UNITED STATES DISTRICT JUDGE